IN VACATION.

BELLY-ACHE.—"Acute gastritis" is, it would seem, the same as "belly-ache." *Billings* v. *Metropolitan Life Ins. Co.*, 70 Vt. 477, 41 Atl. Rep. 516.

THE ACME OF WISDOM.—"It is so very often that family quarrels arise from a man's bringing his wife to live with him in the same house with his mother and sisters that ordinarily no amount of pecuniary economy can compensate for the risk that is run." *Smith* v. *Smith*, 45 Pa. St. 403, per Lowrie, C. J.

ACTION OF EJECTMENT.—A husband has the right to eject his brother-in-law, who is his wife's guest, from the house in which he and his wife live, even though the wife owns the house. *State* v. *Lockwood*, 1 Penn. (Del.) 76, 39 Atl. Rep. 589.

A PROPER SENSE OF HARMONY.—Where the jurors after retiring to consider of their verdict attempted to sing and one of them was unable to carry the "base," it is not ground for a new trial that a man who was not a member of the jury joined them and gave them "the proper air." *Collier* v. *State*, 20 Ark. 37.

WHERE JUDGE FELL ASLEEP.—It is not ground for a new trial that the court appeared to be asleep during the reading of the written evidence. A party who has "reason to suppose that the judge was indulging in a gentle doze after dinner should have suspended his reading or awakened the judge." *Musselman* v. *Musselman*, 44 Ind. 106, per Buskirk, J.

SMOKING BY ATTORNEYS IN OPEN COURT.—It is not ground for a new trial that attorneys were permitted to smoke in open court and during the trial, it not appearing that any objection was made to the smoking or that it had any injurious effect upon the party asking for the new trial. *Musselman* v. *Musselman*, 44 Ind. 106.

"CLIMBING UP THE GOLDEN STAIRS."—It is ground for a new trial that the jury in a murder case upon retiring went to a hotel, got drunk, and in coming up to their room in the hotel sang "We are Climbing Up the Golden Stairs." *State* v. *Damareste*, 41 La. Ann. 413, 6 So. Rep. 654.

HOW TRUE.—

"In law, no plea so tainted or corrupt,
But, being seasoned with a gracious voice,
Obscures the show of evil."

—Quoted by Breese, J., in *Jumpertz* v. *People*, 21 Ill., 375.

OFFENSIVE ODORS.—The wanton and needless cooking of cabbage and sauerkraut for the purpose of annoying a neighbor is a nuisance. *Medford* v. *Levy*, 31 W. Va. 649, 8 S. E. Rep. 302, 13 A. S. Rep. 887.

DOGS ON RAILROAD TRACK.—Where a pack of dogs are on a railroad track it is not necessary to blow the whistle for each particular dog. *Fink* v. *Evans*, 95 Tenn. 413, 32 S. W. Rep. 307.

BOOTBLACKS IN BUSTLING NEW YORK BOSSES OF THEIR OWN BUSINESS.—New York has an act under the pretentious title "to protect all citizens in their legal and civil rights," which provides, among other things, that all persons are entitled to equal accommodations in hotels, theatres, public conveyances, etc., "and all other places of public accommodation." The proprietor of a bootblacking stand in the ancient and honorable city of Rochester had the audacity to refuse to black the boots of an eminently "respectable" colored gentleman. Whereupon said eminently "respectable" colored gentleman in said ancient and honorable city of Rochester did unto the court complain of the grievous deprivation of legal and civil rights by him suffered at the hands of the aforesaid bootblack, *contra formam statuti antedicti* (?) Whereupon came a jury of the burghers of the aforesaid ancient and honorable town of Rochester, and assessed the damage of the aforesaid colored gentleman at $100 for the loss of the aforesaid legal and civil rights and a shoe shine. Whereupon the aforesaid bootblack did by successive appeals bring the case to the Court of Appeals of the State of New York. And the said Court of Appeals, in the case styled *Burks* v. *Rosso* decided January 31, 1905, after having maturely considered the complaint of the aforesaid eminently respectable colored gentleman against said bootblack (whether he was respectable the record doth not show; but, upon the principle of *expressio unius, exclusio alterius*, the presumption is against said bootblack), and being of opinion that, while "a bootblacking stand may be said to be a place of public accommodation like the store of the proverbial 'butcher, baker, and candlestick-maker,'" there was no more relation between a bootblacking stand and a public conveyance than there was between a theatre or music hall and a bath-house or barber-shop, wherefore the aforesaid Court of Appeals was of opinion that the aforesaid eminently respectable colored gentleman was cast in his suit against the aforesaid bootblack. C. B. G.